

2. This is a lawsuit brought on behalf of plaintiff pursuant to the provisions of 42 U.S.C. § 1983 against the Township of Edison, its chief law enforcement officers, certain supervising officers and a number of patrol officers involved in plaintiff's arrest and processing for offenses in violation of the Prevention of Domestic Violence Act in

the Township of Edison on May 20, 2008.

3. This Certification is made in support of the motion of defendant, Police Officer Scot Sofield to stay discovery from him in the matter, or in the alternative for a protective order with respect to his obligation to provide certified answers to Interrogatories and responses to Document Demands, and his submitting to a deposition as requested by plaintiff's attorney in accordance with Fed. R. Civ. P. 26(c).

4. On information and belief from discussions with my client and his criminal defense attorney, Police Officer Sofield, and his partner at the time of the subject arrest, Police Officer Salvatore Capriglione are being investigated by federal authorities in connection with a Justice Department investigation of the Edison Township Police Department and specifically the subject arrest of plaintiff, Lenus Germe, which forms the basis of his civil Complaint in the instant matter.

5. On information and belief no target letters have been issued by the FBI, no AUSA has been assigned the matter, and no Grand Jury has been impaneled. However, it is clear from the many and continuing contacts that Officer Capriglione and his attorney has had with the FBI that their conduct in regard to plaintiff's subject arrest is part of a parallel criminal investigation being undertaken by the Justice Department.

6. Based on the contacts initiated by federal authorities, my client, Police Officer Scot Sofield retained separate counsel to represent his interests in defense of the FBI investigation and any resultant criminal action. His attorney, Anna G. Cominsky, Esq. of Krovatin Klingeman, LLC of Newark, New Jersey recently discussed the matter. She has indicated that neither she nor Officer Sofield to her knowledge have had any direct contact with any federal investigator. However, she indicates that

she was retained by Officer Sofield after multiple contacts that Officer Capriglione and his criminal attorney had with an FBI agent because on information and belief those contacts dealt significantly with Officer Sofield's conduct as Officer Capriglione's partner at the time of Lenus Germe's arrest, transport and processing. Ms. Cominsky on behalf of Officer Sofield also requests a stay of discovery or protective order as proposed herein in respect to our mutual client.

7. Your Honor at a recent Settlement Conference viewed the video from the patrol camera, and Your Honor is aware that Officers Capriglione and Sofield, riding together as partners, arrived together at the scene, participated together in an effort to have Mr. Germe comply with his lawful arrest, and together transported Mr. Germe in their vehicle to Edison Township Police Headquarters where together they escorted him inside for processing. I respectfully submit that the mere fact that no target letter has been issued to Officer Sofield, and that no Assistant U.S. Attorney has been assigned the investigation, should not be dispositive of Your Honor's exercise of discretion. While my involvement in criminal law is quite dated, I can certainly envision that when a federal investigator in connection with an ongoing Justice Department investigation has multiple contacts with only one of two officers, who were working together as partners at all relevant times, there is an increased likelihood that the officer not directly contacted by the investigator becomes an official target, and potentially a criminal defendant.


8. On behalf of defendant, Police Officer Scot Sofield, it is respectfully requested that the Court issue a stay or a protective order deferring his requirement to provide certified answers to Interrogatories and responses to document requests in this matter, and his submission to oral deposition until the parallel criminal investigation is

resolved, or until a further order of this Court should issue.

9. Defendant, Police Officer Scot Sofield also respectfully requests that he be permitted to rely on the Brief authored by Lori A. Dvorak, Esq. as counsel for defendant, Police Officer Salvatore Capriglione in support of the application made on that officer's behalf for the same relief as Officer Sofield respectfully requests herein.

I hereby certify that the statements made by me are true. I am aware that if any statement is willfully false, I am subject to punishment.

Dated: 2/9/11

By: 
Alan J. Baratz
A Member of the Firm